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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/570,938	12/22/2006	Gerard Guilpain	FR-AM 1977 NP	9006
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ARKEMA INC. PATENT DEPARTMENT - 26TH FLOOR 2000 MARKET STREET PHILADELPHIA, PA 19103-3222				
EXAMINER				
MC GINTY, DOUGLAS J				
ART UNIT		PAPER NUMBER		
1796				
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09/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/570,938

Applicant(s)

GUILPAIN ET AL.

Examiner

DOUGLAS MC GINTY

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)
Paper No(s)/Mail Date 3-8-06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corr (EP 536940).

.Corr teaches a refrigerant or heat transfer system containing at least one of R-32 and R-143a, R-125, and R-134a (1,1,1,2-tetrafluoroethane) [0017].

Corr does not appear to teach the particular combination presently claimed. The reference teaches that the composition may have more than three components, although binary or ternary mixtures are preferred [0019].

Nevertheless, the presently claimed composition would have been obvious in view of the teachings of Corr because that reference teaches the four components presently claimed, among others, in a refrigerant composition. "The combination of familiar [components] according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Intern. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1739 (2007). Moreover, the teaching that another embodiment is preferred does not necessarily "teach away" from the claimed embodiment. MPEP2123, II.

Corr also does not appear to teach the percentages presently claimed. Nevertheless, those amounts would have been obvious because the reference teaches a wide range of amounts for the claimed components [0020-0029]. Obviousness only requires a reasonable expectation of success. *In re O'Farrell*, 853 F.2d 894, 904 (Fed. Cir. 1988).

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corr (EP 536940) as applied to claims 1-4 above, and further in view of Thomas (US 2006/0234896).

Corr teaches that its refrigerant can be used to replace R-22 refrigerants [0017] which intrinsically involves the step of removing the same. However, the reference does not teach the step of rinsing the heat transfer system.

Nevertheless, Thomas teaches flushing, i.e., rinsing, the system with a composition containing HFC-245fa and trans-1,2-dichloroethylene [0022]. Other solvents may be used as well [0023, 0024].

It would have been obvious to one skilled in the art to flush, i.e., rinse, the heat transfer system, as taught by Thomas, after removing the R-22 refrigerant, as suggested by Corr, because both references pertain to heat transfer systems. One skilled in the art would have recognized the need to clean out the system before the new refrigerant is added. One of ordinary skill is not an automaton; he or she is capable of using common sense. *KSR Intern. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742 (2007).

Allowable Subject Matter

The examples in the present application have been carefully reviewed. However, the evidence of unexpectedly better results is not considered to be commensurate with the scope of the presently claimed invention. MPEP 716.02(d).

Still, Tables 1-4 at pp. 9 and 10 of the present specification show unexpectedly better results over the R-407C composition for the following components and ranges:

R-32	20-25 wt%
R-125	25-35 wt%
R-134a	35-40 wt%
R-143a	10-15 wt%

The tables show better performance values, oil returns, and maximum oil levels for Examples 1-3 within those ranges. The above rejections would be overcome if claim 1 is amended to include those ranges. Claim 2 would have to be cancelled as well.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS MC GINTY whose telephone number is (571)272-1029. The examiner can normally be reached on M-F, 830-500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DOUGLAS MC GINTY/
Primary Examiner, Art Unit 1796